

AMENDED IN ASSEMBLY SEPTEMBER 6, 2013

AMENDED IN SENATE APRIL 1, 2013

SENATE BILL

No. 359

Introduced by Senator Corbett

February 20, 2013

~~An act to amend Section 21159.24 of the Public Resources Code, relating to the environment. An act relating to electric vehicles, and making an appropriation therefor.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 359, as amended, Corbett. ~~Environment: CEQA exemption: housing projects.~~ *Electric vehicles.*

Existing law establishes the Air Quality Improvement Program that is administered by the State Air Resources Board for the purposes of funding projects related to, among other things, reduction of criteria air pollutants and improvement of air quality. Existing law requires, until January 1, 2016, that a portion of the registration fees for motor vehicles and vessels be deposited into the Air Quality Improvement Fund and, upon appropriation, be expended for the implementation of the program. Pursuant to the Air Quality Improvement Program, the state board has established the Clean Vehicle Rebate Project to promote the production and use of zero-emission vehicles and the Hybrid and Zero-Emission Truck and Bus Voucher Incentive Project to provide vouchers to help California fleets to purchase hybrid and zero-emission trucks and buses.

Existing law establishes the Vehicle Inspection and Repair Fund, which serves as a repository for fees collected by the Department of Consumer Affairs pursuant to the Automotive Repair Act.

This bill would require the Controller, upon the order of the Director of Finance, to transfer, as a loan, \$30,000,000 from the Vehicle Inspection and Repair Fund to the Air Quality Improvement Fund. The bill would appropriate to the state board \$30,000,000 from the Air Quality Improvement Fund for the Clean Vehicle Rebate Project and the Hybrid and Zero-Emission Truck and Bus Voucher Incentive Project, thereby making an appropriation.

~~(1) The California Environmental Quality Act, commonly referred to as CEQA, requires a lead agency, as defined, to prepare, or cause to be prepared, and certify the completion of, an environmental impact report on a project that it proposes to carry out or approve that may have a significant effect on the environment or to adopt a negative declaration if it finds that the project will not have that effect. CEQA also requires a lead agency to prepare a mitigated negative declaration for a project that may have a significant effect on the environment if revisions in the project would avoid or mitigate that effect and there is no substantial evidence that the project, as revised, would have a significant effect on the environment.~~

~~CEQA exempts residential infill projects meeting specified criteria, including, among other things, that a community-level environmental review was adopted or certified within 5 years of the date that the application for the project is deemed complete and the project promotes higher density infill housing. CEQA conclusively presumes that a project with a density of at least 20 units per acre promotes higher density infill housing. For the purposes of this exemption, CEQA defines “residential” to include a use consisting of residential units and primarily neighborhood-serving goods, services, or retail uses that do not exceed 15% of the total floor area of the project.~~

~~This bill would instead exempt as “residential” a use consisting of residential units and neighborhood-serving goods, services, or retail uses that do not exceed 25% of the total building square footage of the project.~~

~~(2) Because this bill would require a lead agency to determine whether a housing project meets the above criteria to qualify for an exemption from CEQA, the bill would impose a state-mandated local program.~~

~~(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that no reimbursement is required by this act for a specified reason.~~

Vote: majority. Appropriation: ~~no~~ yes. Fiscal committee: yes.
State-mandated local program: ~~yes~~ no.

The people of the State of California do enact as follows:

1 SECTION 1. (a) *The sum of thirty million dollars*
2 *(\$30,000,000) is hereby appropriated from the Air Quality*
3 *Improvement Fund to the State Air Resources Board for the Clean*
4 *Vehicle Rebate Project and Hybrid and Zero-Emission Truck and*
5 *Bus Voucher Incentive Project established pursuant to Article 3*
6 *(commencing with Section 44274) of Chapter 8.9 of Part 5 of*
7 *Division 26 of the Health and Safety Code.*

8 (b) *Upon the order of the Director of Finance, the sum of thirty*
9 *million dollars (\$30,000,000) shall be transferred by the*
10 *Controller, as a loan from the Vehicle Inspection and Repair Fund*
11 *to the Air Quality Improvement Fund. No later than June 30, 2016,*
12 *the loan shall be repaid with interest at the rate earned by the*
13 *Pooled Money Investment Account at the time of the transfer.*

14 ~~SECTION 1. Section 21159.24 of the Public Resources Code~~
15 ~~is amended to read:~~

16 ~~21159.24. (a) Except as provided in subdivision (b), this~~
17 ~~division does not apply to a project if all of the following criteria~~
18 ~~are met:~~

19 ~~(1) The project is a residential project on an infill site.~~

20 ~~(2) The project is located within an urbanized area.~~

21 ~~(3) The project satisfies the criteria of Section 21159.21.~~

22 ~~(4) Within five years of the date that the application for the~~
23 ~~project is deemed complete pursuant to Section 65943 of the~~
24 ~~Government Code, community-level environmental review was~~
25 ~~certified or adopted.~~

26 ~~(5) The site of the project is not more than four acres in total~~
27 ~~area.~~

28 ~~(6) The project does not contain more than 100 residential units.~~

29 ~~(7) Either of the following criteria are met:~~

30 ~~(A) (i) At least 10 percent of the housing is sold to families of~~
31 ~~moderate income, or not less than 10 percent of the housing is~~
32 ~~rented to families of low income, or not less than 5 percent of the~~
33 ~~housing is rented to families of very low income.~~

~~(ii) The project developer provides sufficient legal commitments to the appropriate local agency to ensure the continued availability and use of the housing units for very low, low-, and moderate-income households at monthly housing costs determined pursuant to paragraph (3) of subdivision (h) of Section 65589.5 of the Government Code.~~

~~(B) The project developer has paid or will pay in-lieu fees pursuant to a local ordinance in an amount sufficient to result in the development of an equivalent number of units that would otherwise be required pursuant to subparagraph (A).~~

~~(8) The project is within one-half mile of a major transit stop.~~

~~(9) The project does not include any single level building that exceeds 100,000 square feet.~~

~~(10) The project promotes higher density infill housing. A project with a density of at least 20 units per acre shall be conclusively presumed to promote higher density infill housing. A project with a density of at least 10 units per acre and a density greater than the average density of the residential properties within 1,500 feet shall be presumed to promote higher density housing unless the preponderance of the evidence demonstrates otherwise.~~

~~(b) Notwithstanding subdivision (a), this division shall apply to a development project that meets the criteria described in subdivision (a), if any of the following occur:~~

~~(1) There is a reasonable possibility that the project will have a project-specific, significant effect on the environment due to unusual circumstances.~~

~~(2) Substantial changes with respect to the circumstances under which the project is being undertaken that are related to the project have occurred since community-level environmental review was certified or adopted.~~

~~(3) New information becomes available regarding the circumstances under which the project is being undertaken and that is related to the project, that was not known, and could not have been known, at the time that community-level environmental review was certified or adopted.~~

~~(e) If a project satisfies the criteria described in subdivision (a), but is not exempt from this division as a result of satisfying the criteria described in subdivision (b), the analysis of the environmental effects of the project in the environmental impact report or the negative declaration shall be limited to an analysis~~

1 of the project-specific effect of the projects and any effects
2 identified pursuant to paragraph (2) or (3) of subdivision (b):

3 (d) For the purposes of this section, “residential” means a use
4 consisting of either of the following:

5 (1) Residential units only.

6 (2) Residential units and primarily neighborhood-serving goods,
7 services, or retail uses that do not exceed 25 percent of the total
8 building square footage of the project.

9 SEC. 2. No reimbursement is required by this act pursuant to
10 Section 6 of Article XIII B of the California Constitution because
11 a local agency or school district has the authority to levy service
12 charges, fees, or assessments sufficient to pay for the program or
13 level of service mandated by this act, within the meaning of Section
14 17556 of the Government Code.